



General Assembly

January Session, 2005

Raised Bill No. 1304

LCO No. 4430

04430_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT ESTABLISHING A CITIZEN GRAND JURY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2005*) For purposes of sections
2 1 to 7, inclusive, of this act:

3 (1) "Citizen grand jury" means a grand jury consisting of fifteen
4 citizens of the United States who are residents of this state, selected
5 pursuant to chapter 884 of the general statutes, who are appointed by
6 the presiding judge to conduct an investigation into the commission of
7 a crime or crimes;

8 (2) "Crime" means a commission of a class A or B felony, a violation
9 of chapter 949c or section 36b-4, 36b-6, 53-153, 53-451, 53a-129c, 53a-
10 129d, 53a-129e, 53a-138, 53a-147, 53a-148, 53a-149, 53a-150, 53a-152,
11 53a-153, 53a-154, 53a-158, 53a-159, 53a-160, 53a-161, 53a-161a, 53a-161c,
12 53a-161d, 53a-215 or 53a-277 of the general statutes;

13 (3) "Presiding judge" means the presiding judge of the criminal
14 session of the Superior Court for the judicial district in which the
15 prosecuting authority files an application for a citizen grand jury

16 investigation;

17 (4) "Property" includes, but is not limited to, documents, books,
18 papers, records, films, recordings and other tangible things;

19 (5) "Prosecuting authority" means the Chief State's Attorney, a
20 deputy chief state's attorney or a state's attorney, or his or her
21 designee; and

22 (6) "Subpoena" means a subpoena ad testificandum or a subpoena
23 duces tecum, or both.

24 Sec. 2. (NEW) (*Effective October 1, 2005*) (a) A prosecuting authority
25 may apply to the presiding judge for a citizen grand jury investigation
26 into the commission of a crime or crimes whenever such applicant
27 certifies, in writing, that such applicant has a reasonable belief that the
28 administration of justice requires an investigation to determine
29 whether or not there is probable cause to believe that a crime or crimes
30 have been committed.

31 (b) Each application for a citizen grand jury investigation into the
32 commission of a crime or crimes shall be made, in writing, upon oath
33 or affirmation to the presiding judge. Each application shall include
34 the following information: (1) The identity of the applicant and the
35 applicant's authority to make such application; (2) a full and complete
36 statement of the facts and circumstances relied upon by the applicant
37 to justify the applicant's reasonable belief that the investigation will
38 lead to a finding of probable cause that a crime or crimes have been
39 committed; and (3) a full and complete statement of the facts
40 concerning all previous applications known to the applicant for
41 investigation of any one or more of the same crimes involving any of
42 the same persons specified in the application, including the action
43 taken by the presiding judge on each such application.

44 Sec. 3. (NEW) (*Effective October 1, 2005*) (a) Upon an application
45 being made in accordance with section 2 of this act, the presiding judge

46 shall approve the application and order an investigation into the
47 commission of a crime or crimes, and the Chief Court Administrator
48 shall, not later than thirty days, (1) appoint a citizen grand jury to
49 conduct the investigation, and (2) designate the court location in the
50 judicial district where any motions to quash and any contempt
51 proceedings shall be heard and any findings and records of the
52 investigation shall be filed. Once the citizen grand jury is assembled,
53 the Chief Court Administrator shall appoint one juror as foreperson
54 and another juror as deputy foreperson in the event that the foreperson
55 is unable to serve.

56 (b) Each order authorizing an investigation into the commission of a
57 crime or crimes by a citizen grand jury shall specify: (1) The date of
58 issuance of the order, (2) the period of time within which the
59 investigation is to be conducted, provided in no event shall the
60 investigation be longer than six months from the date the Chief Court
61 Administrator appoints the citizen grand jury to conduct the
62 investigation unless an application for an extension of time is filed and
63 granted pursuant to subsection (c) of this section, and (3) the reasons of
64 the presiding judge for finding that the administration of justice
65 requires an investigation to determine whether or not there is probable
66 cause to believe that a crime or crimes have been committed. The
67 presiding judge shall retain a copy of the order and the original
68 application and shall transmit to the citizen grand jury, appointed
69 pursuant to subsection (a) of this section, the original order and a copy
70 of the application.

71 (c) If, at the end of six months, the citizen grand jury determines that
72 its business has not been completed, it shall notify the presiding judge
73 that an extension is needed. The presiding judge may, upon such
74 notification, enter an order extending the period of time within which
75 the investigation is to be conducted. No more than two extensions of
76 an order may be granted by the presiding judge. The period of any
77 extension shall be no longer than the presiding judge deems necessary
78 to achieve the purposes for which it was granted, and in no event shall

79 any extension be for a period longer than six months.

80 (d) If the presiding judge fails to order an extension requested by
81 the citizen grand jury pursuant to subsection (c) of this section, the
82 prosecuting authority may apply to the Chief Court Administrator for
83 an order extending the period of time within which the investigation is
84 to be conducted. Upon the making of such application by the
85 prosecuting authority, the period of time within which the
86 investigation is to be conducted shall be extended until the Chief Court
87 Administrator enters a decision on such application.

88 Sec. 4. (NEW) (*Effective October 1, 2005*) Any order authorizing the
89 citizen grand jury investigation into the commission of a crime or
90 crimes and any application filed with the presiding judge pursuant to
91 section 2 of this act shall be sealed. The presiding judge shall submit to
92 the Chief Court Administrator a summary of the application for the
93 investigation and any recommendation as to the court location at
94 which any motions to quash and any contempt proceedings are to be
95 heard and the finding and record of the investigation are to be filed.
96 Such summary shall be public unless the presiding judge determines
97 that such summary be sealed for purposes of (1) ensuring the public
98 safety of any individual, (2) ensuring that the investigation would not
99 be adversely affected, or (3) complying with other provisions of the
100 general statutes or rules of court which prohibit disclosure of such
101 information. Any investigation by the citizen grand jury shall be
102 conducted in private, except that the presiding judge may order the
103 investigation or any portion thereof to be conducted in public when
104 deemed in the public interest.

105 Sec. 5. (NEW) (*Effective October 1, 2005*) (a) The citizen grand jury, in
106 conducting the investigation, shall be assisted by the prosecuting
107 authority who filed the application.

108 (b) The attendance of witnesses and the production of property at
109 such citizen grand jury may be compelled by subpoena, signed by the
110 prosecuting authority.

111 (c) If any witness properly summoned fails to appear or to produce
112 any property specified in the subpoena or, if having appeared, fails to
113 answer any proper question, the prosecuting authority may apply to a
114 judge of the superior court in the judicial district, as specified in
115 subsection (a) of section 3 of this act, requesting the issuance of a
116 capias or an order of contempt, as appropriate, with respect to each
117 witness. The application of the prosecuting authority and the order of
118 the court shall be sealed as to the public and not be subject to
119 disclosure. The hearing on the application shall not be open to the
120 public.

121 (d) Witnesses may be examined, under oath administered by the
122 prosecuting authority, by the citizen grand jury conducting the
123 investigation or by the prosecuting authority. At the hearing, the
124 prosecuting authority shall inform the witness that he or she has the
125 right to have counsel present and to consult with such counsel.

126 (e) The prosecuting authority shall inform any witness who is a
127 target of the investigation that he or she is a target and shall advise the
128 witness that he or she has the right under the Constitution of the
129 United States and the Constitution of the state not to be compelled to
130 be a witness, or to give evidence, against himself or herself.

131 (f) The prosecuting authority shall disclose to the citizen grand jury
132 any exculpatory information or material in the prosecuting authority's
133 possession, custody or control concerning any person who is a target
134 of the investigation.

135 (g) A court reporter or assistant court reporter shall record any
136 testimony taken at the investigation.

137 Sec. 6. (NEW) (*Effective October 1, 2005*) (a) Not later than sixty days
138 after the conclusion of the investigation, the citizen grand jury
139 conducting such investigation shall file its finding, signed by the
140 foreperson, with the presiding judge and shall file a copy of its finding
141 with the prosecuting authority who made application for the

142 investigation. The court reporter shall file any record of the
143 investigation with the court designated by the Chief Court
144 Administrator pursuant to subdivision (2) of subsection (a) of section 3
145 of this act and the presiding judge, and the prosecuting authority who
146 made application for the investigation shall have access to such record
147 upon request made to the clerk of the court without a hearing. Such
148 finding shall state whether or not the citizen grand jury has found, by a
149 concurrence of a majority of its members, that there is probable cause
150 to believe that a crime or crimes have been committed. Except as
151 otherwise provided in this section, any part of the record of the
152 investigation not disclosed with the finding pursuant to subsection (b)
153 of this section shall be sealed, provided any person may file an
154 application with the presiding judge for disclosure of any such part of
155 the record. Upon receipt of such application, the presiding judge shall,
156 after notice, consider the matter and may disclose any such part of the
157 record when such disclosure is deemed by the presiding judge to be in
158 the public interest, except that no part of the record shall be disclosed
159 which contains allegations of the commission of a crime by an
160 individual if the citizen grand jury failed to find probable cause that
161 such individual committed such crime unless such individual requests
162 the release of such part of the record. Any person aggrieved by such
163 order shall have the right to appeal such order by filing a petition for
164 review with the Appellate Court not later than seventy-two hours after
165 the issuance of such order.

166 (b) The finding of the investigation shall be open to public
167 inspection and copying at the court where it has been filed seven
168 calendar days after it has been filed, unless within that period the
169 prosecuting authority with whom the finding was filed files a motion
170 with the presiding judge requesting that a part or all of such finding
171 not be so disclosed. The finding may include all or such part of the
172 record as the citizen grand jury may determine, except that no part of
173 the record shall be disclosed which contains allegations of the
174 commission of a crime by an individual if the citizen grand jury failed
175 to find probable cause that such individual committed such crime

176 unless such individual requests the release of such part of the record.
177 In such event as much of the finding as has not been sought to be
178 withheld from disclosure shall be disclosed promptly upon the
179 expiration of said seven-calendar-day period.

180 (c) Not later than fifteen calendar days after the filing of such
181 motion, the presiding judge shall conduct a hearing. The presiding
182 judge shall give written notice of such hearing to the person filing such
183 motion and any other person the presiding judge deems to be an
184 interested party to the proceedings, which may include, but not be
185 limited to, persons who testified or were the subject of testimony
186 before the citizen grand jury. Not later than five calendar days after the
187 conclusion of the hearing, the presiding judge shall render his or her
188 decision, and shall send copies thereof to all persons to whom the
189 presiding judge gave notice of the hearing. The presiding judge shall
190 deny any such motion unless the presiding judge makes specific
191 findings of fact on the record that there is a substantial probability that
192 one of the following interests will be prejudiced by publicity that
193 nondisclosure would prevent, and that reasonable alternatives to
194 nondisclosure cannot adequately protect that interest: (1) The right of a
195 person to a fair trial; (2) the prevention of potential defendants from
196 fleeing; (3) the prevention of subornation of perjury or tampering with
197 witnesses; or (4) the protection of the lives and reputations of innocent
198 persons which would be significantly damaged by the release of
199 uncorroborated information. Any order of nondisclosure shall be
200 drawn to protect the interest so found.

201 (d) Any person aggrieved by an order of the presiding judge shall
202 have the right to appeal such order by filing a petition for review with
203 the Appellate Court within seventy-two hours from issuance of such
204 order.

205 (e) The Appellate Court shall provide an expedited hearing on such
206 petition in accordance with such rules as the judges of the Appellate
207 Court may adopt, consistent with the rights of the petitioner and the

208 parties.

209 (f) Notwithstanding the existence of an order of nondisclosure
 210 under this section, any witness may apply, in writing, to the presiding
 211 judge of the criminal session of the court of the judicial district wherein
 212 the record of the investigation has been filed, or such presiding judge's
 213 designee, for access to and a copy of the record of such witness' own
 214 testimony. Any witness shall be allowed access, at all reasonable times,
 215 to the record of such witness' own testimony and be allowed to obtain
 216 a copy of such record unless such presiding judge or such presiding
 217 judge's designee finds after a hearing and for good cause shown that it
 218 is not in the best interest of justice to allow the witness to have access
 219 to and a copy of the record of the witness' testimony.

220 (g) Notwithstanding the existence of an order of nondisclosure
 221 under this section, the presiding judge of the criminal session of the
 222 court of the judicial district wherein the record of the investigation has
 223 been filed, or such presiding judge's designee, shall grant any written
 224 request of a person accused of a crime as a result of the investigation to
 225 have access, at all reasonable times, to the record of such person's own
 226 testimony and to obtain a copy of such record.

227 Sec. 7. (NEW) (*Effective October 1, 2005*) In January of each year, the
 228 presiding judge of the criminal session of the superior court for each
 229 judicial district shall report to the Chief Court Administrator, who
 230 shall in turn report to the Chief Justice, the Governor and the General
 231 Assembly, the following information with respect to applications made
 232 during the preceding calendar year: (1) The number of applications for
 233 an investigation by a citizen grand jury into the commission of a crime
 234 or crimes filed with the presiding judge; (2) the number of applications
 235 approved by the presiding judge; and (3) the number of applications
 236 approved for extensions of time or amendments to the order.

<p>This act shall take effect as follows and shall amend the following sections:</p>
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Section 1	<i>October 1, 2005</i>	New section
Sec. 2	<i>October 1, 2005</i>	New section
Sec. 3	<i>October 1, 2005</i>	New section
Sec. 4	<i>October 1, 2005</i>	New section
Sec. 5	<i>October 1, 2005</i>	New section
Sec. 6	<i>October 1, 2005</i>	New section
Sec. 7	<i>October 1, 2005</i>	New section

Statement of Purpose:

To authorize the empanelling of an impartial grand jury of citizens to investigate corruption and other criminal offenses.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]